



General Assembly

Amendment

January Session, 2003

LCO No. 6324

HB0656706324HD0

Offered by:

REP. HAMM, 34th Dist.

SEN. HANDLEY, 4th Dist.

To: Subst. House Bill No. 6567

File No. 621

Cal. No. 425

**"AN ACT CONCERNING THE AGE OF A CHILD FOR PURPOSES
OF JURISDICTION IN JUVENILE MATTERS."**

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 46b-120 of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2003*):

5 The terms used in this chapter shall, in its interpretation and in the
6 interpretation of other statutes, be defined as follows:

7 (1) "Child" means (A) before October 1, 2006, any person under
8 sixteen years of age, [and, for purposes of delinquency matters, "child"]
9 (B) on and after October 1, 2006, and before October 1, 2007, any
10 person under seventeen years of age, and (C) on and after October 1,
11 2007, any person under eighteen years of age;

12 (2) "Delinquent child" means any [person (A) under sixteen years of

13 age, or (B) sixteen years of age or older who, prior to attaining sixteen
14 years of age,] child who has violated any federal or state law or
15 municipal or local ordinance, other than [an ordinance regulating
16 behavior of a child in a family with service needs, and, subsequent to
17 attaining sixteen years of age, violates] a motor vehicle infraction, or
18 has violated any order of the Superior Court or any condition of
19 probation ordered by the Superior Court with respect to [such] a
20 delinquency proceeding;

21 [(2) "youth"] (3) "Youth" means any person sixteen or seventeen
22 years of age;

23 [(3) "youth in crisis"] (4) "Youth in crisis" means any youth who [,
24 within the last two years,] (A) has without just cause run away from
25 the parental home or other properly authorized and lawful place of
26 abode, (B) is defiant, rebellious and beyond the control of his or her
27 parent or parents, guardian or other custodian, or (C) [has four
28 unexcused absences from school in any one month or ten unexcused
29 absences in any school year] is a truant or habitual truant or, while in
30 school, has been continuously and overtly defiant of school rules and
31 regulations;

32 [(4) "abused"] (5) "Abused" means that a child or youth (A) has been
33 inflicted with physical injury or injuries other than by accidental
34 means, [or] (B) has injuries that are at variance with the history given
35 of them, or (C) is in a condition that is the result of maltreatment such
36 as, but not limited to, malnutrition, sexual molestation or exploitation,
37 deprivation of necessities, emotional maltreatment or cruel
38 punishment;

39 [(5) a] (6) A child may be found "mentally deficient" who, by reason
40 of a deficiency of intelligence that has existed from birth or from early
41 age, requires, or will require, for [his] such child's protection or for the
42 protection of others, special care, supervision and control;

43 [(6) a] (7) A child may be convicted as "delinquent" who has
44 violated (A) any federal or state law or municipal or local ordinance,

45 other than [an ordinance regulating behavior of a child in a family
46 with service needs] a motor vehicle infraction, (B) any order of the
47 Superior Court, except as provided in subsection (c) of section 46b-
48 150f, or (C) conditions of probation as ordered by the court;

49 [(7) a] (8) A child or youth may be found "dependent" whose home
50 is a suitable one for the child or youth, [save] but for the financial
51 inability of the parents, parent, guardian or other person maintaining
52 such home, to provide the specialized care the condition of the child or
53 youth requires;

54 [(8) "family with service needs"] (9) "Family with service needs"
55 means a family that includes a child who (A) has without just cause
56 run away from the parental home or other properly authorized and
57 lawful place of abode, (B) is defiant, rebellious and beyond the control
58 of his or her parent [,] or parents, guardian or other custodian, [(C) has
59 engaged in indecent or immoral conduct, (D)] or (C) is a truant or
60 habitual truant or, [who,] while in school, has been continuously and
61 overtly defiant of school rules and regulations; [, or (E) is thirteen years
62 of age or older and has engaged in sexual intercourse with another
63 person and such other person is thirteen years of age or older and not
64 more than two years older or younger than such child;]

65 [(9) a] (10) A child or youth may be found "neglected" who (A) has
66 been abandoned, [or] (B) is being denied proper care and attention,
67 physically, educationally, emotionally or morally, [or] (C) is being
68 permitted to live under conditions, circumstances or associations
69 injurious to the well-being of the child or youth, or (D) has been
70 abused;

71 [(10) a] (11) A child or youth may be found "uncared for" who is
72 homeless or whose home cannot provide the specialized care that the
73 physical, emotional or mental condition of the child requires. For the
74 purposes of this section, the treatment of any child by an accredited
75 Christian Science practitioner, in lieu of treatment by a licensed
76 practitioner of the healing arts, shall not of itself constitute neglect or

77 maltreatment;

78 [(11) "delinquent act"] (12) "Delinquent act" means (A) the violation
79 of any federal or state law or municipal or local ordinance, other than
80 [an ordinance regulating the behavior of a child in a family with
81 service needs] a motor vehicle infraction, or (B) the violation of any
82 order of the Superior Court, except as provided in subsection (c) of
83 section 46b-150f;

84 [(12) "serious juvenile offense"] (13) "Serious juvenile offense" means
85 (A) the violation, [by a child,] including attempt or conspiracy to
86 violate, [sections] by a child of section 21a-277, 21a-278, 29-33, 29-34,
87 29-35, 53-21, 53-80a, 53-202b [,] or 53-202c, sections 53-390 to 53-392,
88 inclusive, 53a-54a to 53a-57, inclusive, 53a-59 to 53a-60c, inclusive, or
89 53a-70 to 53a-71, inclusive, section 53a-72b [,] or 53a-86, sections 53a-92
90 to 53a-94a, inclusive, section 53a-95, 53a-101, 53a-102a [,] or 53a-103a,
91 sections 53a-111 to 53a-113, inclusive, subdivision (1) of subsection (a)
92 of section 53a-122, subdivision (3) of subsection (a) of section 53a-123,
93 section 53a-134, 53a-135, 53a-136a, 53a-166 [,] or 53a-167c, subsection
94 (a) of section 53a-174 [,] or section 53a-196a, 53a-211, 53a-212, 53a-216
95 or 53a-217b, or (B) running away, without just cause, from any secure
96 placement other than home while referred as a delinquent child to the
97 Court Support Services Division or committed as a delinquent child to
98 the Commissioner of Children and Families for a serious juvenile
99 offense;

100 [(13) "serious juvenile offender"] (14) "Serious juvenile offender"
101 means any child convicted as delinquent for commission of a serious
102 juvenile offense;

103 [(14) "serious juvenile repeat offender"] (15) "Serious juvenile repeat
104 offender" means any child charged with the commission of any felony
105 if such child has previously been convicted delinquent at any age for
106 two violations of any provision of title 21a, 29, 53 or 53a that is
107 designated as a felony;

108 [(15) "alcohol-dependent child"] (16) "Alcohol-dependent child"

109 means any child who has a psychoactive substance dependence on
110 alcohol as that condition is defined in the most recent edition of the
111 American Psychiatric Association's "Diagnostic and Statistical Manual
112 of Mental Disorders";

113 [and (16) "drug-dependent child"] (17) "Drug-dependent child"
114 means any child who has a psychoactive substance dependence on
115 drugs as that condition is defined in the most recent edition of the
116 American Psychiatric Association's "Diagnostic and Statistical Manual
117 of Mental Disorders", [. No] provided no child shall be classified as
118 drug dependent who is dependent (A) upon a morphine-type
119 substance as an incident to current medical treatment of a
120 demonstrable physical disorder other than drug dependence, or (B)
121 upon amphetamine-type, ataractic, barbiturate-type, hallucinogenic or
122 other stimulant and depressant substances as an incident to current
123 medical treatment of a demonstrable physical or psychological
124 disorder, or both, other than drug dependence; and

125 (18) "Run away" means to leave the parental home or other properly
126 authorized and lawful place of abode for at least twenty-four hours
127 without just cause.

128 Sec. 2. Section 46b-127 of the general statutes is repealed and the
129 following is substituted in lieu thereof (*Effective October 1, 2003*):

130 (a) The court shall automatically transfer from the docket for
131 juvenile matters to the regular criminal docket of the Superior Court
132 the case of any child charged with the commission of a capital felony, a
133 class A or B felony or a violation of section 53a-54d, provided such
134 offense was committed after such child attained the age of fourteen
135 years and counsel has been appointed for such child if such child is
136 indigent. Such counsel may appear with the child but shall not be
137 permitted to make any argument or file any motion in opposition to
138 the transfer. The child shall be arraigned in the regular criminal docket
139 of the Superior Court at the next court date following such transfer.
140 The file of any case so transferred shall remain sealed until the end of

141 the tenth working day following such arraignment, unless the state's
142 attorney has filed a motion pursuant to this subsection, in which case
143 such file shall remain sealed until the court makes a decision on the
144 motion. A state's attorney may, not later than ten working days after
145 such arraignment, file a motion to transfer the case of any child
146 charged with the commission of a class B felony to the docket for
147 juvenile matters for proceedings in accordance with the provisions of
148 this chapter. The court sitting for the regular criminal docket shall,
149 after hearing and not later than ten working days after the filing of
150 such motion, decide such motion.

151 [(b) Upon motion of a juvenile prosecutor and order of the court, the
152 case of any child charged with the commission of a class C or D felony
153 or an unclassified felony shall be transferred from the docket for
154 juvenile matters to the regular criminal docket of the Superior Court,
155 provided such offense was committed after such child attained the age
156 of fourteen years and the court finds ex parte that there is probable
157 cause to believe the child has committed the act for which he is
158 charged. The file of any case so transferred shall remain sealed until
159 such time as the court sitting for the regular criminal docket accepts
160 such transfer. The court sitting for the regular criminal docket may
161 return any such case to the docket for juvenile matters not later than
162 ten working days after the date of the transfer for proceedings in
163 accordance with the provisions of this chapter. The child shall be
164 arraigned in the regular criminal docket of the Superior Court by the
165 next court date following such transfer.]

166 [(c)] (b) Upon the effectuation of the transfer to the regular criminal
167 docket of the Superior Court, such child shall stand trial and be
168 sentenced, if convicted, as if he [were sixteen years of age] or she were
169 not a child. Such child shall receive credit against any sentence
170 imposed for time served in a juvenile facility prior to the effectuation
171 of the transfer. A child who has been transferred may enter a guilty
172 plea to a lesser offense if the court finds that such plea is made
173 knowingly and voluntarily. Any child transferred to the regular
174 criminal docket who pleads guilty to a lesser offense shall not resume

175 his or her status as a juvenile regarding [said] such lesser offense. If the
176 action is dismissed or nolle or if such child is found not guilty of the
177 charge for which [he] such child was transferred or of any lesser
178 included offenses, the child shall resume his or her status as a juvenile
179 until he [attains the age of sixteen years] or she is no longer a child.

180 [(d)] (c) Any child transferred to the regular criminal docket of the
181 Superior Court who is detained shall be in the custody of the
182 Commissioner of Correction upon the finalization of such transfer. A
183 transfer shall be final [(1)] upon the expiration of ten working days
184 after the arraignment if no motion has been filed by the state's attorney
185 pursuant to subsection (a) of this section or, if such motion has been
186 filed, upon the decision of the court to deny such motion, [or (2) upon
187 the court accepting the transfer pursuant to subsection (b) of this
188 section.] Any child returned to the docket for juvenile matters who is
189 detained shall be in the custody of the Judicial Department.

190 [(e)] (d) The transfer of a child to a Department of Correction facility
191 shall be limited to the provisions of subsection [(d)] (c) of this section
192 and said subsection shall not be construed to permit the transfer of or
193 otherwise reduce or eliminate any other population of juveniles in
194 detention or confinement within the Judicial Department or the
195 Department of Children and Families.

196 Sec. 3. (*Effective from passage*) The Chief Court Administrator, the
197 Commissioner of Children and Families, the Commissioner of
198 Correction, the Chief State's Attorney, the Chief Public Defender and the
199 Child Advocate, or their designees, and a full-time juvenile probation
200 officer appointed by the Chief Court Administrator, shall form an
201 implementation team that shall: (1) Review all matters necessary to
202 implement the increase in the age limit for purposes of jurisdiction in
203 juvenile matters, as provided in subdivision (1) of section 46b-120 of the
204 general statutes, as amended by this act, by the dates specified in said
205 subdivision; and (2) develop a comprehensive plan for the timely and
206 efficient accomplishment of such implementation. Not later than January
207 15, 2004, not later than January 15, 2005, and not later than January 15,

208 2006, the implementation team shall submit reports concerning the
209 progress made, the matters remaining to be accomplished, any
210 impediments and any recommendations with respect to such
211 implementation to the joint standing committee of the General Assembly
212 having cognizance of matters relating to the judiciary and the select
213 committee of the General Assembly having cognizance of matters
214 relating to children. The reports required by this section shall be
215 submitted in accordance with section 11-4a of the general statutes."

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>
Sec. 3	<i>from passage</i>